



City of Austin Law Department

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June 14, 2019

VIA FIRST CLASS MAIL

Honorable Ken Paxton
Attorney General of Texas
Open Records Division
MC-014
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Request from Ms. Emma Best received May 31,
2019. (R017831)

Dear Attorney General Paxton,

The Austin Police Department (the “department”) received a request for information from Ms. Emma Best on May 31, 2019.¹ Thus, today is the tenth business day since the department’s receipt of this request. The department believes most of the requested information is excepted from disclosure under section 552.108 of the Government Code. This letter is a request for a determination under section 552.301 of the Government Code that the requested information is so excepted. Copies of the request and representative samples of the information at issue are enclosed.

¹ Ms. Best submitted her request by email at 11:40 p.m. on May 30, 2019. The business hours for the department’s administrative offices are Monday through Friday from 8:00 a.m. to 5:00 p.m. Thus, Ms. Best’s request was constructively received on May 31, 2019.

By copy of this letter the department is notifying the requestor that the department wishes to withhold the requested information and has asked for a decision from the Attorney General about whether this information is within an exception to public disclosure.

Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.-Austin 2002, no pet.). To demonstrate the applicability of this exception, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor). Your office has concluded section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. See, e.g., Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 508 (1988) (release of dates of future prison transfer could impair security), 252 (1980) (section 552.108 designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. See, e.g., ORDs 531 at 2-3 (Penal Code provisions, common law/rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known). The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

The requestor has requested various records pertaining to "Anonymous" or "hacktivism". The enclosed information is maintained by department personnel who are assigned to the Austin Regional Intelligence Center ("ARIC").² The information reflects specific law enforcement strategies and techniques the department has and will continue to utilize when dealing with certain behaviors by members of the public. The release of the information in question would make it difficult for the department to prepare for these types of activities, since anyone seeking to conduct these types of activities would have specific prior knowledge of how the department has and continues to prepare for such activities. Thus, such prior knowledge would interfere with the department's ability to maintain the peace and could result in injuries to members of the public and officers. The information also relates to specific department strategies utilized to identify individuals and groups of individuals who may be engaging in criminal activity, and the release of this information would adversely affect law enforcement, endanger police officers, and provide criminals information that might enable them to escape detection. Accordingly, the

² The ARIC is a collaborative effort of public safety agencies in Travis, Williamson, and Hays Counties. The center, which is managed by the department, has been in operation since December 15, 2010. One of ARIC's primary focuses is information sharing with other public safety partners. A recognized Fusion Center by the Department of Homeland Security, the mission of ARIC is to maximize the region's ability to detect, prevent, apprehend, and respond to criminal/terrorist activity. ARIC focuses on regional public safety data analysis and timely dissemination of actionable intelligence across multiple law enforcement jurisdictions and private sector businesses responsible for the area's critical infrastructure and key resources.

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department believes that release of the enclosed information would interfere with law enforcement and crime prevention, and the department seeks to withhold this information under section 552.108(b)(1).

Please do not hesitate to contact me at (512) 974-2509 if you have any questions concerning this matter.

Sincerely,



Cary Grace
Assistant City Attorney

aws/
Enclosures

cc: (without enclosures)
Ms. Emma Best
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